

March 29, 2000

Final Report to Atlantic Philanthropic Service Co., Inc.

Executive Summary

This final report from Cornell Law School's Legal Information Institute (LII) covers the third year of a five year period during which the LII's hardware and software needs are being supported by a gift of \$107,500 from donors represented by the Atlantic Philanthropic Service Company Inc. It accounts for our expenditures from that gift, including those since last July's Interim Report, and provides an overall summary of expenses compared to the original projections in our 1996 proposal. It reports on what the gift has enabled the Institute to accomplish, and summarizes our future plans.

1) Expenditures Made Possible by the Final Payment

Since our last financial report (last July's update to the April 1999 interim report), the LII spent 421,618.59 out of the total gift payments -- all of balance remaining from the second payment plus most of last September's final installment. Notable items in this total include \$6,279 for a replacement of our oldest server, \$1,429 for a machine to log and analyze the traffic at our site, and \$2,565 for power protection. In addition, we acquired software licenses for \$4,744 and did a modest amount of incremental upgrades and infrastructure maintenance.

The one significant item shown in our expenditure plan for 1999-2000 (see the July update) that we have not yet acquired is the multimedia processing workstation with associated peripherals and software. We shall be buying that before summer at a total cost of approximately \$15,000 -- the final use of the gifts covered by this report.

We continue to re-deploy older machines to new tasks when their initial function has been taken over by one of our new machines. In this year's round of server reassignments we have finally been able to move our original all-purpose server, our main Web portal, to lighter duties. A new "www.law.cornell.edu" is being phased in, with substantial review of old data and linkages together with software upgrades accompanying this machine substitution.

2) Comparing Expenditures and Institute Activities to the 1996 Proposal

The growth in use of LII services continues to climb at an extraordinary rate. Without the program of hardware and software funding from donors represented by the Atlantic Philanthropic Service Company Inc. keeping up with the volume of this demand would have been impossible. This March weekly data requests of the LII's servers climbed past 8 million. A year ago the comparable figure was 5 million. When we projected our 5-year capital needs and submitted our original proposal in 1996 we were right around the million mark and thought our servers were dealing with "extraordinary loads". The

planned and budgeted approach to equipment and software needs reflected in that proposal has enabled us to chase after and at least stay within reach of this rapid growth of use. At times we have fallen behind and our users have experienced sluggish response times and searches that exhaust reasonable levels of patience; but we have been able to continue to build the capacity necessary to meet the huge demand for legal information opened up by the Internet -- including that from non-lawyer professionals, educators and students, and lay individuals.

The five-year plan envisioned spreading the LII's collections and services to a team of special purpose machines. We began that process in 1996. Today we are running eight servers. Given the scale of the LII collections and the size of its audience, moving material from one machine to two in ways that do not interrupt service while preserving the linkages between documents as well as the relationship between search engines and the data they search must be a painstakingly deliberate process. We are, for example, in the middle of a migration of material from the LII's original main server to a more capable successor. That process was begun six months ago.

Our original proposal described the importance of separating both functions and collections. Today our most heavily used resources (the U.S. Code, current decisions of the Supreme Court, historical Supreme Court materials and the American Legal Ethics Library, and pages organizing materials by jurisdiction (e.g., Michigan, California) and topic (Civil Rights, Custody, Workers' Compensation and so on) are spread across four different servers. The indexing and searching of the U.S. Code no longer impacts access to Supreme Court decisions, nor does the processing of fresh decisions received from the Supreme Court or the New York Court of Appeals affect users of the U.S. Code.

Our proposal noted the importance of having the search engine capacity to deal with queries from lay users and the need to have software that would allow us to do "secure transactions" (in order to offer downloadable materials for on-line purchase). The freeware that enabled the Institute to launch its Web resource with minimal software expenditure has by now largely been supplanted by heavy duty software products designed for high traffic sites and priced accordingly.

Some of the directions our current activities lead us were scarcely visible in 1996, even less predictable than the rate at which traffic has grown. Having this support for an important portion of our capital needs has given us the capacity to respond with reasonable agility to an environment that has continued to change at an extraordinary rate. Two examples may help illuminate this point.

Distance Learning

In the fall of 1996, the Institute launched its first distance learning course. As conducted over the following three years this course made use of technology that placed no additional demands on the LII equipment. Course materials were distributed via the Web, the Web-based asynchronous conference was hosted by a law school machine performing the same duty for local courses, and the CUSEEME reflector which supported weekly video conferences with four other sites ran on one of the less heavily

used LII servers. Our experience with that course has led to a more ambitious model that thrusts us into multi-media production and distribution (initially predominantly audio material) and to have server capacity sufficient to deliver streaming audio and video to larger and larger numbers of distant students.

Changes in How We Acquire Key Primary Material

Experience has taught us to expect change where and when we would like it least. Our most heavily used collections of primary law material -- the U.S. Code, U.S. Supreme Court decisions and decisions of the New York Court of Appeals -- place us in a posture of needing to respond in timely fashion to changes in method or format of distribution implemented by the issuing body, often with little warning. Repeated crash efforts to respond to these changes have pressed us to devise ever more sophisticated and flexible retrieval and conversion systems. These systems all require machine and software resources we did not imagine in earlier days when naively we assumed reasonable stability on the supply side, even as we saw exploding use on the other.

3) Key Developments During 1999-2000

Planning Stimulated by the Appointment of a New Dean

A single dean, Russell Osgood, supported the establishment and initial growth of the LII. Osgood was dean in 1996 and committed the institutional resources on which the gifts covered by this report were premised. Osgood left the deanship in 1998. An interim dean, who served for a year after his departure, responded to alumni enthusiasm for the Legal Information Institute but was, understandably, unprepared to address financial or structural issues critical to the long-term future of the Institute.

The appointment of a new dean, Lee Teitelbaum, coming from another institution (Utah) inescapably opened the full complex of issues surrounding the relationship of this unprecedented activity to conventional programs, personnel, and budget of the law school. No other U.S. law school has a comparable electronic publication, research and educational arm. Consequently, ready answers or models are not available and leadership experience at another institution was not likely to offer much direct guidance.

Dean Teitelbaum has been quick to appreciate the importance of the LII to the school and has been more than willing to work on the fundamental issues that are key to the Institute's successful transition from being a project critically dependent on its two founders to an enduring program. Upon his request, the Institute principals, Bruce and Martin, spent much of the fall term on a long-range planning document, described below.

Work on Data Standards and Conversion Software

The long-awaited shift by the New York Court of Appeals from a dial-up bulletin board system for distributing its decisions to a Web site, provided the opportunity, as well as the necessity, to revise and dramatically improve the systems used by the LII for handling that data. In the face of very little time, negligible cooperation from the Court, and both

thin data and inconsistent formats, the LII has built a system for automatic retrieval of decisions from the Court site and their conversion to a sophisticated data format (XML) that will enable new and improved search functions and future flexibility in handling the material. Together with the work that the LII has done under contract with New York Court of Claims and its experience with successive data formats used by the U.S. Supreme Court, this technical work on mark-up and other elements of data structure used in legal documents has established the Institute as a leader in this field which is of increasing importance to public and private sector legal information distributors around the globe.

In the early days of the legal Web, the LII helped to determine informal standards simply by being the first to do things and by doing them in a highly-functional way so that it made sense for others to follow our lead. In the current environment, our leadership needs to become more formalized, for two reasons. First, we need to reach a much larger number of actors many of whom (like the New York Court of Appeals) are undertaking Web publication without much forethought or knowledge; they need to be educated into a series of good practices that will, in turn, serve their purposes. Second, there is a lot more community expertise than there was even two years ago, and we (the LII) need to draw on it. Third, widely held technical standards such as XML are evolving in directions that increase behind-the-scenes complexity even as they simplify things for end users, and they demand that we approach them carefully and with consideration. For all those reasons, the LII has concluded that formal standards development and experimentation should be a future priority.

An initial step in this direction is an LII Invitational Workshop on Standards for Public Legal Information, to be held in July 2000. Roughly twenty participants drawn from leading public legal information providers in seven countries will meet at Cornell to discuss future standards and directions in the areas described above. The list of invitees includes participants from all of the major English-speaking jurisdictions, from important US Government web publishers (House of Representatives, Library of Congress, GPO), and from the highest quality sites offering legal information within the United States, as well as from important sites in Norway, South Africa, the Peoples Republic of China, and elsewhere.

Building the Foundation for Expanded Distance Learning

The LII's initial distance learning experiment, which ran for three continuous academic years and involved students at three other law schools, concluded in 1999. Based on that experience, the Institute developed the framework for a more ambitious and more scaleable set of distance learning offerings.

To lay the foundation for these next distance learning offerings, Martin organized and taught a course on copyright law during the fall term and a social security law course in the spring. The full construction process has entailed preparation of a complete set of readings in digital format (necessary in order to avoid any rights problems in connection with digital distribution), framing class discussion in terms that will translate reasonably to asynchronous exchange, audio taping all classes to assist in the preparation of recorded

presentation modules, and development and implementation of a number of on-line "mastery exercises."

In February, the LII sent out invitations for participation to 25 or so U.S. law schools, hoping to yield aggregate student bodies in the range of 50-75 for each of the two courses being offered in 2000-2001. Returns to date suggest we should have more than enough participants for both courses to test the validity of our judgments about the effectiveness of this revised distance learning structure with larger numbers of students from a greater diversity of institutions.

Securing Both Institutional and External Support for liibulletin-ny and liibulletin-patent

Now in its fifth year, the LIIBULLETIN-NY provides commentary on important decisions of the New York Court of Appeals, delivered via e-mail within a few business days of the release of the decisions. In its current form, this student-written bulletin provides synopsis and summation plus succinct analysis of all full decisions, plus deeper commentary on important ones. Currently LIIBULLETIN-NY has approximately 2800 subscribers, more than any of the three student-edited print journals published at the School. It is read at a large number of law firms, by legislative staff in other states, at Ernst & Young and at Andersen Consulting, and in Fiji and South Africa.

Two related changes to the bulletin took place this year. First, it received financial sponsorship from the New York State Bar Association and second, to justify and cement that relationship, the bulletin expanded its coverage to include summaries of all decisions with full opinions by the Court, in addition to deeper commentary on selected important ones. This expansion involved assigning a member of the summer work team to prepare summaries of the Court's decisions for the months of May through July and organizing a special intersession team to deal with the decisions of late November and December.

A second student journal patterned on LIIBULLETIN-NY and overseen by the same editorial structure (same editor in chief and managing editors) was launched on an experimental basis in 1998-99 but only hit its stride in 1999-2000. LIIBULLETIN-PATENT is staffed by students with a keen interest in intellectual property issues and focuses on the patent appeals decided by the U.S. Court of Appeals for the Federal Circuit (which has exclusive jurisdiction over all appealed patent decisions of the U.S. District Courts).

This year also saw these electronic publications finally achieve internal recognition comparable to their print analogs. School publications and other references to student journals or activities now list the liibulletins together with the conventional print journals.

4) Planning for the Future

As already noted, this year marked the beginning of a planning process. The lengthy document laying out the framework for that process began by identifying the following interconnected issues:

This plan attempts to answer the question, “What must the LII and the Law School each do if the LII is to survive, and if it is to accrue maximum benefit for the school?” This is not a simple question, in part because the LII does not fit cleanly into ordinary institutional patterns and in part because we are attempting to steer a ship that is already underway. There is some institutional history to consider, and a considerable amount of work in progress. We should probably also point out that our notion of “maximum benefit” is not strictly fiscal and that, as a result, this is not a business plan (though it makes repeated calls for sound business planning).

We have broken this all-embracing question of the long-term good into several smaller but nonetheless daunting questions....

The questions, then, are:

How are we to overcome limitations of founder time and skill?

At this point the LII simply cannot take on more without increasing available staff resources. We are now entirely constrained by “founder time” -- that is, the amount of time the Bruce and Martin have to put into new (or even existing) efforts. While our small staff is very capable, we have not reached the critical mass that would allow some projects to continue with only indirect supervision by us. Matters like fundraising and business planning, for all that they may be important in the long run, tend to perish under the weight of day-to-day needs and activities.

There are also limits of skill. Each of us is by nature somewhat entrepreneurial, perhaps more so than most of our colleagues, but neither of us has the skill set needed to do fundraising, market research, or commercial business and product development. Each of us can work with graphical materials, but we are not graphic artists. We need to hire additional expertise, some of it full-time and some of it not.

What set of formal relationships are we to have with the school?

Initially it was difficult to form concrete agreements with the School because neither the LII nor the School could say much about the shape of the future, or even if there *was* a future. At this point the success of the LII is apparent. It is clear that it can be an engine for institutional advancement. But we lack concrete understandings on some important points. Among other things, we each need to know what we can expect from the other in terms of overall commitment and in terms of agreements about intellectual property and rights to the “LII brand”.

How are we to maximize the potential for both earned and unearned income?

There is enormous potential for the LII to create income streams and to enhance the income streams that it has, both earned and unearned. To do so will require great creativity, unconventional thinking, and sound business and development

planning. We need to re-price our current products and services and to create new services that can operate on a sound business basis. We need to increase our visibility to donors and create an endowment. We cannot do any of this without help and without sound and specific planning for fundraising activities.

How are we to deal with problems of founder succession on a not-too-distant horizon?

The LII is ill-equipped to survive the departure of either of its founders, and the existing institutional methods for recruiting replacements are, we believe, inadequate. This is not an immediate problem, but with Martin entering a decade in which full or partial retirement is probable and both of us in an arena where the opportunities are great it would be unwise not to have a mechanism for succession in place. This is particularly so if, as we believe, an adequate mechanism would involve tricky cultural and institutional questions.

How should we structure our planning process to maximize our agility and ensure leadership while continuing activities that remain useful and valuable?

The LII occupies a position of leadership in the field of public legal information architecture. That position is continually threatened by rapid change in the technology base and in the business environment for legal publishing. We won it by virtue of foresight and sustained effort, and we have created a number of collections that are relied on by literally hundreds of thousands of audience members. But the unfortunate truth is that we will lose that position of leadership (and ultimately our audience, as well) if we cannot find other hands to take care of some day-to-day LII activities, and if we do not have the ability to shed as well as add activities.

While discussions with the dean over these issues have only begun, he has already committed to additional staff (an editor and a programmer), focused fund raising activity, and the use of a consultant to explore how best to proceed to add marketing, fundraising, and general business expertise.

Organization and Project Information

- Legal Information Institute of Cornell Law School (LII)
Myron Taylor Hall
Ithaca, NY 14853
- Prof. Peter W. Martin
- Final Report

Assessment of Work to Date

The attached set of excerpts from the LII planning document referred to above provide a more detailed account of Institute's current funding and activities, as well as its future plans.

Accounting of Recommended Funds and Financial Information

Attached is an accounting of expenditures to date from last fall's \$10,000 payment and the unspent portion of the prior two payments as well as last July's projection for reference.